

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRYAN O'KEEF KIMBLE,

Movant,

vs.

No. CV 20-01241 RB/GJF

No. CR 13-2744 RB

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER
GRANTING WITHDRAWAL AND DISMISSING CIVIL CASE**

THIS MATTER is before the Court on Movant Bryan O'Keef Kimble's letter withdrawing his letter motion seeking relief under *Rehaif v. United States*. (Doc. 12.) The Court will grant the request to withdraw and dismiss civil case No. CV 20-01241 RB/GJF.

On November 30, 2020, Kimble filed his handwritten letter motion. (CV Doc. 1; CR Doc. 55.) He stated "I am writing in concern to my 922(g) charges. I wanted to know if I have any relief coming from the "RAHAIF Case." (CV Doc. 1 at 1; CR Doc. 55 at 1.) Kimble's motion appeared to challenge his conviction and sentence in CR 13-02744 RB. (CV Doc. 1 at 1; CR Doc. 55 at 1.) The Court thus entered an Order pursuant to *Castro v. United States*, 540 U.S. 375 (2003) on December 2, 2020, notifying Kimble that the Court intended to recharacterize his motion as a first 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence and granting him leave to withdraw or amend the motion within 21 days. (CV Doc. 3.)

Kimble did not respond to the November 30, 2020 Order and the copy mailed to him was returned as undeliverable. (CV Doc. 4.) The Court then issued an Order to Show Cause why the case should not be dismissed. (CV Doc. 5.) Kimble did not respond to the Order to Show Cause,

but he did send the Court a letter advising the Court of a new address. (CV Doc. 7.) The Court then remailed its Orders to Kimble's new address. The Court then issue a Second Order to Show Cause. (CV Doc. 10.) Kimble again responded by sending yet another change of address. (CV Docs. 8; 11.) The Court again mailed its Orders to Kimble's newest address.

On September 21, 2021, Kimble filed his letter notifying the Court that he was exercising the option to withdraw his November 30, 2020 letter motion. (CV Doc. 12.) As stated in the Court's December 2, 2020 Order, the Court has not yet characterized and, in light of withdrawal of the motion, will not characterize, Kimble's letter motion as a first motion under 28 U.S.C. § 2255. The Court will grant the request to withdraw and will dismiss civil proceeding No. CV 20-01241 RB.

IT IS ORDERED that Movant Bryan O'Keef Kimble's request to withdraw his letter motion (CV Doc. 12) is **GRANTED** and his letter motion (CV Doc. 1; CR Doc. 55) is **WITHDRAWN**; Kimble's letter motion (CV Doc. 1; CR Doc. 55) is **NOT CHARACTERIZED** as a first motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence; and civil case No. CV 20-01241 RB/GJF is **DISMISSED** without prejudice.


ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE